

CP 245

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JAN 02 2008**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****In Re Application of:**
Craig Heacock et al.**Serial No.: 10/660,058****Group Art Unit: 1617****Filing Date: September 11, 2003****Examiner: Jennifer M. Kim****For: PHARMACEUTICAL FORMULATIONS OF MODAFINIL****TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Pursuant to 37 CFR §1.321(b), the owner, CEPHALON, INC., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as presently shortened by any terminal disclaimer, of prior Patent Nos. 6,919,378 and 6,489,363 as well as co-pending Patent Application Nos. 10/155,913; 10/243,557; and 11/550,588. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent

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jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR

1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I, as the attorney of record, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FEE STATUS

Authorization is hereby made to charge the amount of \$130.00, and for any additional fees required by the filing of this paper, and to refund any overpayment associated with this communication or during the pendency of this application to deposit account 03-1195.

Date: January 2, 2008


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